

REMARKS

Applicants respectfully request the rejoinder of the process of use claims 61-65 and 67-68 which depend from the allowed product claim 37 pursuant to MPEP §821.04. The following is a quotation from MPEP §821.04 Rejoinder:

Where the application as originally filed discloses the product and the process for making and/or using the product, and only claims directed to the product are presented for examination, when a product claim is found allowable, applicant may present claims directed to the process of making and/or using the patentable product by way of amendment...

This amendment is being submitted to rejoin process claims which depend from the allowable product claim. Applicants became aware of the allowability of the product claim upon receipt of the Notice of Allowance.

Applicants respectfully request amendment of claim 45 to correct editorial errors. Specifically, the scientific names of the organisms are italicized and the term --*Toxoplasma*-- is inserted in place of "Taxoplasmosis" in claim 45. A person having ordinary skill in the art would recognize that these formal scientific names would be italicized and that the term "Taxoplasmosis gondii" is a typographical error for which the correct term would be "*Toxoplasma gondii*". Support for these amendments can be found in claim 45 and the specification on page 6, lines 9-11.

Applicants respectfully request amendment of claim 52. Specifically, the alphabet letter --E-- is inserted in place of

"G" after the word "glycoprotein". Support for this amendment can be found, for example, in claim 52 and in the specification on the following pages; the description of homology vector 926-76.D7 on page 62, lines 19-37 and page 63, lines 1-7; the description of homology vector 846-88.B17 on page 69, lines 35-37 and page 70, lines 1-22, and Example 12 through Example 18 on page 97 through page 104. A person having ordinary skill in the art would recognize that the term "glycoprotein G" is a typographical error for which the correct term would be "glycoprotein E". In claim 52, the elimination of the article "a" is requested. The insertion of the term --herpesvirus-- in place of "herpes virus" is requested in claim 52.

Applicants respectfully request amendment of claim 55 to correct an editorial error by eliminating the term "feline". Support for this amendment can be found in claim 55 and in the specification in Example 9, page 88, lines 8-37, page 89, lines 1-37 and page 90, lines 1-2.

Applicants respectfully request amendment of claim 59 to correct editorial errors. Support for this amendment can be found in claim 59 and in the specification on page 8, lines 9-11. A person having ordinary skill in the art would recognize that the term "1x10 cfu/ml" is a typographical error and that the correct term would be "1x10⁸ pfu/ml".

Applicants respectfully request amendment of claim 62 to correct an editorial error. Specifically, --comprises-- is inserted in place of the word "comprising".

Application No. 09/303,040

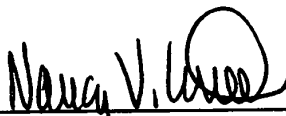
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Applicants respectfully request entry of these amendments. No new claims are added. No new matter is added. Attached hereto is a marked-up version of the changes made to the claims as Exhibit A. The attached pages are captioned "VERSION WITH MARKINGS TO SHOW CHANGES MADE."

If the Examiner has any questions concerning these amendments, please direct them to the undersigned agent at the telephone number listed below.

No fees are believed to be necessary, however, if any fees are required, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Schering-Plough Deposit Account No. 19-0365.

Respectfully submitted,



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EXHIBIT A

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Claims 61-65 and 67-68 have been rejoined.

Claims 45, 52, 55, 59 and 62 have been amended as follows:

45. (Amended) The recombinant virus of claim 44, wherein the pathogen is a feline pathogen, a rabies virus, [Chlamydia] Chlamydia, [Taxoplasmosis gondii] Toxoplasma gondii, [Dirofilaria immitis] Dirofilaria immitis, a flea, or a bacterial pathogen.
52. (Amended) The recombinant virus of claim 37, wherein the virus is a feline herpesvirus and the [a] nonessential region is the glycoprotein [G] E gene of feline [herpes virus] herpesvirus.
55. (Amended) The recombinant [feline] swinepox of claim 50 designated S-SPV-246 (ATCC Accession No. VR-2603).
59. (Amended) The vaccine of claim 58, wherein the effective immunizing amount of the recombinant virus is an amount between about 1×10^5 pfu/ml and about [1x10 cfu/ml] 1×10^8 pfu/ml.

62. (Amended) A method for immunizing a feline which
[comprising] comprises administering to the feline an
effective immunizing amount of the recombinant virus of
claim 37.